Applicant: Kuramitsu, et al. Attorney's Docket No.: 11283-013001 / PH-1261 US

Serial No.: 09/938,901

Filed : August 24, 2001

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## **REMARKS**

These remarks are in response to the Office Action mailed September 23, 2003. Claims 3-4 has been canceled without prejudice to Applicants' right to prosecute the canceled subject matter in any divisional, continuation, continuation-in-part, or other application. New claims 36-37 have been added. Support for new claim 36 can be found throughout the specification as filed. No new matter is believed to have been introduced.

## I. REJECTION UNDER 35 U.S.C. §102

Claims 1-3 and 32 stand rejected under 35 U.S.C. §102 as allegedly anticipated by White et al. Claim 3 has been canceled, thus the rejection is most with respect to this claim.

Applicants respectfully traverse this rejection.

White et al. do not teach or suggest SEQ ID NO:1 or 2 and therefore cannot anticipate Applicants' claims. Accordingly, the §102 rejection may be withdrawn.

## II. REJECTION UNDER 35 U.S.C. §112, SECOND PARAGRAPH

Claim 3 has been canceled without prejudice. Thus, this rejection is moot.

## III. REJECTION UNDER 35 U.S.C. §112, FIRST PARAGRAPH

Claims 1-3 and 32 stand rejected under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 3 has been canceled, thus the rejection is most with respect to this claim. Applicants respectfully traverse this rejection.

Claims 1-2 and 32 do not cover a broad genus but rather structure that has been associated with DNA repair activity. Thus, the rejection may be properly withdrawn.

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Enclosed is a \$110 check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

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Respectfully submitted,

Attorney's Docket No.: 11283-013001 / PH-1261 US

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